

Introductory Comments

The Examiner has provided applicant with examples, references and patents dated prior to the filing date of the present application that disclosure subject matter contended to be similar to some of the then pending claims in the present application. At least partly for this reasons, some of those claims were narrowed by including details for the steps necessary to better define applicant's invention over the prior art. All of the steps are provided to "simplify the issues" by focusing on those that are integral to the invention (that is, presenting customizing ecommerce selections based on header information in the current communication - specifically one or more of network address [used to look-up information such as location], referrer prior website / search string / domain name / shoppers software), and exclude prior art (that is, cookie information, shared servers that use directory portions of URLs to distinguish between stores, and individual domain names for individual shoppers). The currently pending claims (claims 48-105 and 113-135) are narrowly identified within the original specifications and are within the scope of the claims that were being prosecuted prior to the filing of the RCE.

Despite the larger number of "new" claims, the issues of the new claims for the elected invention are simplified, and are within the scope of the now cancelled claims and original specification. The "simplified issues" are identified in the Abstract of the Disclosure: "The host computer includes a shopper data collector, a shopper database, a store database, a merchandise database, a services database, a presentation formulator, and a web server optionally serving many store sites with overlapping product lines. As one of the remote computers is in current communication with the host computer, the customer data collector collects and analyzes data from the remote computer including search requests, uniform resource locators (URLs), and hidden data. ... The presentation formulator formulates tailored store screens including customized selection screens for merchandise and/or services based upon data collected in the current communication and stored in the shopper, store, merchandise, and services databases." Further, at the request of the Examiner, applicant has previously cancelled claims 106 through 112 to "simplify the issues" to the use of the invention for ecommerce.

The Examiner, Mr. Naresh Vig, then requested applicant provide a concrete and useful example

of the patent claims. Applicant provided the demonstration website "discountstore.us" which Mr. Vig visited on November 12, 13 and 14, 2003, and where applicant demonstrated that using only the information in the current communication (that is, the first request for the home page from the Examiner's remote computer) a customize product selection web page was displayed, providing the Examiner first hand experience that the system of the present invention was able to determine his OS (Windows NT 4.0), his geographic location (VA) and his affiliation (FTS2001/US Patent & Trade), all without the use of cookies or prior data. On the occasion where the Examiner navigated to discountstore.us from the search engine Google (instead of directly typing in the URL in the address bar), applicant's demonstration website determined that the Examiner's "referring website search string" was:

"http://www.google.com/search?q=+site:www.discountcenter.us+discountcenter.us&hl=en&lr=&ie=UTF-8&oe=UTF-8&start=10&sa=N" (this search identifies the search was for "discountcenter.us").

Based on the "hidden information" and accessing publicly available DNS databases (and without using "cookie data" or other information from the Examiner's remote computer), applicant's demonstration website generated the customized product selection including statements/offers to:

1. "Improve Your Network Security" (based on identifying an "Older version Windows [NT] User"),
2. "We serve customers in VA" (based on identifying the "user connecting from VA"),
- and 3. "Click to see why MyISP is faster than FTS 2001/US Patent & Trade" (based on identifying the registration of the user's network address).

Response to Specific Concerns Expressed in the Office Action

Before addressing the expressed concerns in the Office Action mailed March 9, 2004, applicant initially wishes to clarify the comment in the Office Action that the "amendment, paper # 12, filed on 18 November 2003 is acknowledged", although it appears that a simple misstatement of date is involved. Applicant filed an RCE and Amendment on July 21, 2003 canceling all pending claims and adding new claims 48-135, and an Office Action with a restriction requirement was mailed November 18, 2003. A Response to Restriction Requirement was mailed on December 4, 2003 (shown as having a filing date of December 8, 2003). The Office Action to which the present paper is in response was mailed on March 9, 2004.

The Office Action mailed on March 9, 2004, states that the amendment (presumably dated July 21, 2003) is not fully responsive to the prior Office Action because the new claims presented (claims 48-105 and 113-135) are drawn to a non-elected invention, presumably because they are believed to be directed to an invention different than recited in cancelled claims 1-47. Several claim elements from the new claims are identified in the Office Action as not being within the cancelled claims. The following comments will identify the presence of these claim elements in the cancelled claims and show that applicant has not shifted the invention being claimed and thus the prosecution of the pending claims 48-105 and 113-135 is appropriate under the Request for Continued Examination.

Merchandise/Services Databases

The first statement on page 3 of the Office Action is that the elected invention (in cancelled claims 1-47) comprised a “shopper database” and did not comprise a database for storing a list of merchants who can provide merchandise and service as in the new claims. Using new claim 48 by way of example, this presumably refers to the claim language reciting “a merchandise database configured to store information associated with merchandise for sale to the shoppers, and a services database configured to store information associated with services for sale to the shoppers”. This first statement appears not to distinguish between a shopper database and the merchandise and services databases. These are different databases, and all of them were recited in the cancelled claims and are recited in the new claims.

The first statement expresses concern that while the shopper database was recited in the cancelled claims, the merchandise and services databases were not recited in the cancelled claims. By way of counter-examples, cancelled claim 1 and 12 recite both the shopper database and the merchandise database. The shopper database is configured to store shopper information, and the merchandise database is configured to store information associated with merchandise for sale to the shoppers. Further, cancelled claim 8 recites a services database configured to store information associated with services for sale to the shoppers. Cancelled claims 17 and 24 also recite a database with items/merchandise for sale to the shoppers. Cancelled claim 25 recites a services database with information associated with services for sale to the shoppers. Cancelled

claim 31 recites a database to store data associated with items, and cancelled claim 33 recites the database stores data on at least one of merchandise for sale and services for sale. Other claims are similar but for brevity will not be identified at this time. It is also noted, in case it be later considered an issue, that the shopper database is still contained within the new claims, for example, claim 105 recites a "shopper database" as do others of the new claims.

The language in the new claims referring to a merchandise database configured to store information associated with merchandise for sale to the shoppers, and a services database configured to store information associated with services for sale to the shoppers does not present a different invention, does not cause the claims to be drawn to a non-elected invention and the invention for which applicant seeks continued prosecution is not a different invention than recited in cancelled claims 1-47. Applicant has not shifted the invention being claimed and thus the prosecution of the pending claims 48-105 and 113-135 is appropriate under the Request for Continued Examination.

Prior Web Site

The next statement on page 3 of the Office Action expresses concern that the elected invention (in cancelled claims 1-47) uses prior stored customer information and did not use the information of a prior web site from which the shopper navigated to the host system to initiate the current communication as in the new claims. By way of counter-examples where the elected invention (in cancelled claims 1-47) uses information of the prior web site, first, cancelled independent claim 17 recites use of "data from the first remote computer including hidden data that is hidden from the shoppers" and, second, cancelled dependent claim 18 recites use of "searches previous to the current communication" and "header fields of HyperText Transport Protocol (HTTP)". As second counter-examples, cancelled independent claim 40 recites "a data collector configured to determine identification information" and use of "search identification information", while cancelled dependent claim 42 recites "the data collector determines search identification information of the accessing networked computer based on header fields of HyperText Transport Protocol (HTTP)." As described in the specifications on page 14 line 20, "HTTP includes provisions for sending 'header fields' from the web browser 148. These header fields are read by the shopper data collector 125a. The header fields contain information that may be used by the

host system 125 to determine pertinent information about the shopper 120." Prominent in technical literature available to one skilled in the art are provisions made for the use of the HTTP header field HTTP_REFERER to contain the referring URL to the prior web site. Additional header fields with additional information on the prior web site have been proposed, such as HTTP_PARENT_REFERER.

The language in the new claims referring to information of a prior web site from which the shopper navigated to the host system to initiate the current communication, does not cause the claims to be drawn to a non-elected invention and the invention for which applicant seeks continued prosecution is not a different invention than recited in cancelled claims 1-47. Applicant has not shifted the invention being claimed and thus the prosecution of the pending claims 48-105 and 113-135 is appropriate under the Request for Continued Examination.

Location of Shopper

Next, on page 3 of the Office Action concern is expressed that the elected invention (in cancelled claims 1-47) did not use the location of the shopper's computer while the new claims determine the location of the shopper's computer. By way of counter-example, cancelled claim 17 recites that the data collector is configured to determine the network address of the remote computer used by a shopper to access the host system and the presentation formulator is configured to formulate the tailored store screens based on the network address of the remote computer. The location of the shopper's computer is data known by determined network address and as set forth in the application at page 4, line 28 – page 5, line 1, the shopper using a computer with a Domain Naming System (DNS) entry in New York vs. Washington vs. Colorado entering the same domain name to access may also receive different displayed information. Cancelled claims 39, 43 and 45 also recite the data collector as being configured to determine the network address of the networked computer and the presentation formulator configured to display the tailored store screen and a portion of the database data based on the network address of the accessing networked computer.

The referenced language in the new claims does not cause them to be drawn to a non-elected invention and the invention for which applicant seeks continued prosecution is not a different invention than recited in cancelled claims 1-47. By way of example, new claim 97 refers to the

data collector being configured to determine geographical location of the computer as the “additional information” determined by the data collector about the computer and used by the presentation formulator to select the merchandise and services data to be included in the tailored screen as recited in new claim 92. This is the same invention as set forth in cancelled claims 17, 39, 43 and 45, although recited more narrowly. Applicant has not shifted the invention being claimed and thus the prosecution of the pending claims 48-105 and 113-135 is appropriate under the Request for Continued Examination.

Domain Name Portion of URL

Next, on page 3 of the Office Action concern is expressed that the elected invention (in cancelled claims 1-47) did not use the domain name portion of a URL while the new claims determine the domain name portion of a URL and use the domain name portion to access the first web page. By way of counter-examples, cancelled claims 31 and 39 recite a hosting system comprising a web site of a plurality of web pages including a home web page to be displayed first when the web site is accessed through a plurality of domain names each having a format of a home page formatted universal resource locator (URL) address. The data collector is configured to determine which of the plurality of domain names was selected for use when the home web page is accessed by one of the networked computers, and the presentation formulator is configured to modify the home web page to display one of a plurality of tailored store screens and a portion of the database data on the accessing networked computer based at least in part upon the domain name determined by the data collector as being selected. Cancelled method claims 44, 45 and 47 also recite use of a plurality of domain names and determining which of the plurality of domain names was selected for use when the home web page is accessed by one of the networked computers.

The referenced language in the new claims does not cause them to be drawn to a non-elected invention and the invention for which applicant seeks continued prosecution is not a different invention than recited in cancelled claims 1-47. By way of example, new claim 85 refers to a host system having a store database configured to store information associated with electronic commerce stores providing merchandise and services targeting specific overlapping market

segments and providing overlapping product lines with the electronic commerce stores being distinguished by domain name portions of URLs. The shopper data collector is recited as being configured to collect and analyze data from the remote computers of shoppers to determine information usable to formulate tailored store screens for shoppers, including data from the shopper's computer collected and analyzed during the current communication from which the shopper data collector determines for the current communication the domain name portion of a URL used by the shopper to navigate to the host system to initiate the current communication. This is the same invention as set forth in cancelled claims 31, 39, 44, 45 and 47. Applicant has not shifted the invention being claimed and thus the prosecution of the pending claims 48-105 and 113-135 is appropriate under the Request for Continued Examination.

Web Server with Plurality of Domain Names

Finally, on page 3 of the Office Action concern is expressed that the elected invention (in cancelled claims 1-47) did not claim a web server with a plurality of domain names while the new claims do claim a web server with a plurality of domain names and an associated first web page. By way of counter-examples, cancelled claims 31 and 39 recite a hosting system comprising a web site of a plurality of web pages including a home web page to be displayed first when the web site is accessed through a plurality of domain names each having a format of a home page formatted universal resource locator (URL) address. The data collector is configured to determine which of the plurality of domain names was selected for use when the home web page is accessed by one of the networked computers, and the presentation formulator is configured to modify the home web page to display one of a plurality of tailored store screens and a portion of the database data on the accessing networked computer based at least in part upon the domain name determined by the data collector as being selected. Cancelled dependent claim 32 recites that the plurality of domain names include californiawines.com, redwines.com, cheapwines.com, gourmetwines.com, genericwines.com, bargainwines.com, brandnamewines.com, popularwines.com, and rarewines.com (notice the second word of each domain name uses the same descriptor word "wines"). Cancelled method claims 44, 45 and 47 also recite use of a plurality of domain names.

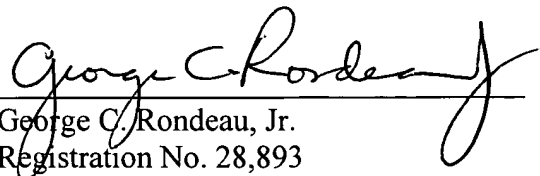
The referenced language in the new claims does not cause them to be drawn to a non-elected invention and the invention for which applicant seeks continued prosecution is not a different invention than recited in cancelled claims 1-47. By way of example, new claim 99 refers to a system comprising a web site having a first web page configured to be displayed first by a computer when the web site is accessed by the computer through use of any one of a plurality of uniform resource locators (URLs) having different domain name portions and without directory portions. New dependent claim 101 recites that the second word of the domain name portions of a plurality of the URLs use the same descriptor word. This is the same invention as set forth in cancelled claims 31, 32, 39, 44, 45 and 47. Applicant has not shifted the invention being claimed and thus the prosecution of the pending claims 48-105 and 113-135 is appropriate under the Request for Continued Examination.

Conclusion

In view of the forgoing, applicant believes that the Amendment filed on July 21, 2003 canceling all pending claims and adding new claims 48-135 was fully responsive to the prior Office Action and request that prosecution of this application continue under the RCE.

If questions remain regarding this application, the Examiner is invited to contact the undersigned at (206) 628-7739.

Respectfully submitted,
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